

201 KAR 11:410. Broker duties pursuant to designated agency.

RELATES TO: KRS 324.121, 324.160(3)

STATUTORY AUTHORITY: KRS 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.121 authorizes a principal broker to designate an agent by appointing a licensee with which he is associated to act as an agent for a seller, buyer or prospective buyer to the exclusion of all other licensees associated with the principal broker. This administrative regulation establishes the requirements that apply to a designated agency.

Section 1. Definitions. (1) "Confidential information" means information that:

- (a) Is provided to a designated agent by a seller or prospective buyer of real estate;
- (b) Describes or affects the provider's negotiation, bargaining position or motivation;
- (c) Is not required by law; and
- (d) Will not constitute fraud or a dishonest dealing, if not disclosed.

(2) "Designated agent" means a person designated pursuant to KRS 324.121(1).

Section 2. A principal broker who appoints a designated agent shall:

- (1) Require that all documents that contain confidential information relating to a client;
 - (a) Be kept in an individual file maintained by the principal broker and accessed only by the principal broker or the designated agent appointed by the principal broker to represent the individual; and
 - (b) Not be accessible to another licensee except as required by KRS 324.160(3);
- (2) Implement a system to maintain confidential information. The system shall:
 - (a) Prohibit an employee from assisting more than one (1) designated agent in the same transaction, if the designated agents represent different clients in that transaction;
 - (b) Prohibit discussions between a designated agent and client concerning confidential information of the client within the office unless the conversation occurs in an environment which allows appropriate privacy;
 - (c) Prohibit the disclosure of confidential information by office personnel and clerical staff; and
 - (d) Require notification to each client involved in a transaction, if the principal broker becomes aware of an unauthorized or inadvertent disclosure of confidential information relating to that transaction; and
- (3) Require a licensee to disqualify himself from being appointed as a designated agent for a party if the agent has received confidential information concerning the other party to the transaction. (25 Ky.R. 1745; Am. 2366; eff. 4-14-99; 31 Ky.R. 1341; 1655; eff. 4-22-2005.)